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DEPARTMENT OF REGULATION AND LICENSING FOR
CEMETERY AUTHORITIES, CEMETERY SALESPERSONS AND PRENEED SELLERS
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Cemetery Legislative Proposal

We have been keeping you informed about a legislative proposal to reform cemetery laws for several years. The proposal would significantly modify the regulation of cemeteries in Wisconsin. However, there were important points of disagreement among several interested parties, including the Department of Regulation and Licensing, the Alliance of Cities and several legislators. The proposal contains many provisions that would improve the regulation of cemeteries in Wisconsin; however, there would be a sizeable price tag and it is hard to say whether the difference of opinions and the fiscal issues can be resolved during the next legislative session. The Wisconsin/Badger State Cemetery Association has been an active participant in the negotiations relating to several draft proposals and bills that were introduced in the Legislature.

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Regulation of Crematories

The legislative proposal that we had discussed in earlier issues of this Regulatory Digest was supported by many interested persons; however, we simply ran out of time in the legislature. The Wisconsin/Badger State Cemetery Association, the Funeral Directors Examining Board, the Wisconsin Funeral Directors Association, the Wisconsin Funeral Service Alliance of Wisconsin, and the Department of Regulation and Licensing supported the proposal and have expressed their continuing commitment to obtain passage of the proposal in the 2003 legislature. One issue received last-minute attention and was carefully reviewed by the parties mentioned above. That issue pertains to inspections of crematories. Should there be an inspection provision in the bill? Who should conduct inspections? How often should inspections be conducted? Who should pay for inspections? The conclusion of the interested parties was that inspections should be conducted in response to complaints, just as inspections of cemetery trust accounts and funeral homes (after the initial inspection of new funeral homes) are conducted when the investigation of a complaint requires an inspection as part of the investigative process.

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Thus, the last draft of the proposal has the following provision under a section, entitled "Discipline": "Subject to the rules promulgated under s. 440.03 (1), the department may make investigations, including inspections, or conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred."

The interested parties will make every effort to have this proposal introduced early in the next legislative session and they hope that the proposal will move forward without undue delay.

Copying Death Certificates

During a discussion of the Funeral Directors Examining Board, relating to the crematory legislative proposal, the Board invited a representative of the Wisconsin Department of Health and Family Services (DHFS), Peggy Peterson, to provide information to the Board about forms relating to cremation. Ms. Peterson distributed a draft copy of a form, entitled "Release to Cremate." She said this form would contain a model format that would be available to coroners in an electronic version. It would be a Word document; therefore, coroners would have some flexibility to tailor it according to their needs. Ms. Peterson said that this revision was necessary, regardless of the fact that the cremation draft was being discussed at this time. The Board concluded the discussion by recommending that this form be distributed to coroners with the Board's recommendation that coroners use the form, as drafted by DHFS.

A related question that surfaced during this discussion was whether funeral directors may make photocopies of death certificates. Ms. Peterson informed the Board that s. 69.24, Wis. Stats., prohibits a funeral director and other persons, except persons exempted by s. 69.30, Wis. Stats., from photocopying a death certificate. Furthermore, a funeral director or other non-exempt person may not fax a death certificate, even when the death certificate is stamped "For Administrative Use." Ms. Peterson pointed out, however, that a funeral establishment may want to keep a copy of a death certificate for its own records prior to filing it. That may be equally true of a cemetery.

Under Wisconsin law, with certain exceptions, it is a felony if a person prepares or issues any paper or film which purports to be, or carries the appearance of, an original or a copy of a vital record, certified or uncertified. Wis. Stat. § 69.24 (1) (a). State law exempts certain persons from this restriction in Wis. Stat. § 69.30, as follows:

69.30 Authorized copying of vital records.

(1) In this section:

(a) "County department" means a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 (am) "Family care district" has the meaning given in s. 46.2805 (5).

(b) "Financial institution" means any bank, savings bank, savings and loan association or credit union that is authorized to do business under state or federal laws relating to financial institutions.

(bm) "Service office" has the meaning given in s. 45.36 (1) (c).

(c) "State agency" has the meaning given in s. 20.001 (1).

(d) "Wisconsin works agency" has the meaning given in s. 49.001 (9).

(2) A financial institution, state agency, county department, Wisconsin works agency, service office or family care district or an employee of a financial institution, state agency, county department, Wisconsin works agency, service office or family care district is not subject to s. 69.24 (1) (a) for copying a certified copy of a vital record for use by the financial institution, state agency, county department, Wisconsin works agency, service office or family care district, including use under s. 45.36 (4m), if the copy is marked "FOR ADMINISTRATIVE USE".

Licensing Statistics

As of November 1, 2002, the number of registrants was:

Cemetery authorities – 68

Cemetery salespersons – 239

Preneed Sellers – 237

Sale or Encumbrance of Cemeteries

The November 1998 and November 1999 editions of the Regulatory Digest listed the approvals granted by the Department for the sale or encumbrance of cemeteries. The following approvals were granted since November 1999:

Highland Memorial Park, Inc., was approved to sell a portion of its vacant land to the Wisconsin Department of Transportation. Highland Memorial Park, Inc., had agreed to a voluntary alienation of the land in lieu of a condemnation proceeding. Dated: 10/14/99.

SCI Funeral Services, Inc., was approved to sell all of its outstanding stock of Cemetery Services, Inc., to S. E. South-Central, Inc., a subsidiary of Stewart Enterprises. This approval affected the sale of the ownership and operation of West Lawn Memorial Park Cemetery (Racine), Appleton Highland Memorial Park (Appleton), Lake View Memorial Park (Oshkosh) and Nicolet Memorial Gardens (Green Bay). Dated: 11/19/99.

The Loewen Group International and many of its subsidiaries were reorganized pursuant to bankruptcy proceedings and the Department approved an internal restructuring that resulted in its cemeteries being operated or managed, as described below:

Alderwoods (Wisconsin), Inc., to own and operate Forest Hill Memorial Park (Oak Creek), Knollwood Memorial Park (Manitowoc), Milton Lawns Memorial Park (Janesville), Glenview Memorial Park (Ixonia), Highland Memory Gardens (Madison), Sun Prairie Memory Gardens (Sun Prairie) Roselawn Memorial Park (Monona), Arlington Park Cemetery (Greenfield), and Sunset Ridge Memorial Park (Kenosha).

The Department also approved the management of Greenlawn Memorial Park (Neenah), Ledgeview Memorial Park (Fond du Lac), and Greenlawn Memorial Park (Kohler) by the Northern Land Company, Inc.

The Department also approved the management of Roselawn Memory Gardens (Lake Geneva), Sunrise Memorial Gardens & Chapel Mausoleum (Sheboygan), and Mormon Coulee Memorial Park (La Crosse) by Alderwoods Wisconsin, Inc.

Dated: December 2001

Cemeteries, Inc., was informed that the Department would not oppose the sale of Green Tree Cemetery (Glendale) to Graceland

Cemetery, and the sale of Evergreen Cemetery (Glendale and Milwaukee) to Glen Oaks Cemetery, Inc. Dated: December 2001.

Valhalla Memorial Gardens Cemetery was approved to sell approximately 30 acres of unplatted and undeveloped property that was not part of the cemetery. Dated: 7/29/02

Trusting Requirements For Preneed Sale of Vaults

Any person who sells caskets or burial containers that have not been preplaced into the burial excavation of a grave is required to trust 100% of all payments, as required by s. 445.125 (1), Wis. Stats. Even though this section may be found in the funeral directors license law, this section pertains to any person, including a cemetery, a preneed seller of cemetery merchandise, and others. This section is available at the following Web site: <http://www.legis.state.wi.us/statutes/01Stat0445.pdf>

The definition of "cemetery merchandise" (for which only 40% trusting is required) specifically excludes caskets and outer burial containers.

Disclosure Requirements

The May 2000 issue of the Regulatory Digest provided information to persons who sell cemetery merchandise. Are you in compliance with these disclosure requirements? Be assured that our auditors will be checking for compliance when they visit you.

The disclosure requirements may be found in s. 440.947, Wis. Stats., which is available at the following Web site: www.legis.state.wi.us/statutes/01Stat0440.pdf

www.drl.state.wi.us

Did you know that these digests, along with many other informational materials, are on the Department's web site? Monthly press releases of disciplinary actions and complete disciplinary orders for each case are also posted on the web site. In addition, you can check on the status of a pending application or a credential holder's record. You can also e-mail an address change, question, or suggestion via the web site. Future goals for the Department will be to post applications for downloading and provide online renewal of credentials. If you haven't looked at the web site lately, check it out for insights and answers to a variety of questions.

Department of
Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

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TELEPHONE DIRECTORY -- Quick Keys

To contact the Department, just dial (608) 266-2112, then enter the Quick Key numbers below for the assistance you need:

To request an application packet:	press 1-1-3
To check the status of a pending application:	press 1-2
To discuss application questions:	press 1-3
To discuss temporary license questions:	press 1-3
To renew or reinstate a permanent license:	press 1-4
To renew or reinstate a permanent license:	press 2-1
To renew a temporary license:	press 2-2
To obtain proof of licensure to another state:	press 3-1
To find out if a person is licensed:	press 3-2
To file a complaint on a license holder:	press 8
To check the status of complaints:	press 8
For all other licensing questions:	press 1-3

VERIFICATIONS

Verifications are now available online at www.drl.state.wi.us. On the Department Web site, please click on "License Lookup". If you do not use the online system, all requests for verification of licenses/credentials must be submitted in writing. There is no charge for this service. Requests should be sent to the Department address or may be faxed to (608) 261-7083 - ATTENTION: VERIFICATIONS. Requests for endorsements to other states must be made in writing - please include \$10 payable to the Department.

DID YOU KNOW THAT YOU CAN ACCESS MOST INFORMATION ON THE DEPARTMENT OF REGULATION & LICENSING WEB SITE?

Visit the Department's Web site at:

www.drl.state.wi.us

Send comments to: web@drl.state.wi.us

CHANGE OF NAME OR ADDRESS?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided. **WIS. STATS. S. 440.11** **ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

WISCONSIN STATUTES AND CODE

Copies of the Wisconsin Statutes and Administrative Code relating to Cemeteries can be ordered through the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28.